

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IP CO., LLC,

Plaintiff,

v.

CELLNET TECHNOLOGY, INC.,

Defendant.

Misc. Civil Action No. _____

(N.D.Ga. Civil Action No. 1:05-CV-2658-CC)

**THIRD-PARTY LANDIS + GYR INC.'S NOTICE OF MOTION AND MOTION
TO QUASH SUBPOENA**

TO THE COURT, THE PARTIES, AND COUNSEL OF RECORD:

PLEASE TAKE NOTICE that third-party Landis + Gyr Inc. ("L+G") moves this Court for an order quashing the subpoena *duces tecum* issued on behalf of this Court by Plaintiff IP CO., LLC ("IPCO") on January 13, 2006 to L+G on the grounds that the subpoena is unduly burdensome and overly broad.

L+G respectfully requests that the Court quash the subpoena in its entirety because L+G's principal place of business is in Indiana, not Delaware, and consequently production in the manner called for by this subpoena would constitute an undue burden on L+G. L+G further requests that the Court quash IPCO's subpoena because: (i) its vast overbreadth (in both subject matter and time period) would create an undue financial burden for L+G; (ii) the subpoena calls for documents containing confidential, trade secret, or other sensitive technical and business information and cannot be produced unless and until the parties agree to a suitable protective order; and (iii) because a great quantity of the material sought may be obtained from parties to the litigation, it is unduly burdensome to seek the materials from L+G, a non-party.

This motion is based on this notice of motion and motion, the accompanying memorandum of points and authorities, the declarations of Ellie A. Doyle, of Randolph H. Houchins, of Sean P. Hayes, the exhibits attached to Mr. Hayes' declaration, the complete files and record in this action, and upon such further and other evidence as may be presented at the hearing on this motion.

Dated: January 23, 2006

FISH & RICHARDSON P.C.

By:


William J. Marsden, Jr. (ID No. 2247)

Sean P. Hayes (ID No. 4413)

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CERTIFICATE OF SERVICE

I, Sean P. Hayes, hereby certify that on this 23rd day of January, 2006, a true and correct copy of THIRD-PARTY LANDIS + GYR, INC.'S NOTICE OF MOTION AND MOTION TO QUASH SUBPOENA was caused to be served on the attorneys of record at the following addresses as indicated:

VIA HAND DELIVERY

Gary W. Lipkin, Esq.
Duane Morris LLP
1100 North Market Street
Wilmington, DE 19801-1246

By:



Sean P. Hayes

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PROPOSED ORDER

IT IS HEREBY ORDERED that third-party Landis + Gyr Inc. (“L+G”) Motion to Quash the subpoena *duces tecum* issued on behalf of this Court by Plaintiff IP CO., LLC (“IPCO”) on January 13, 2006 to L+G is hereby Granted.

United States District Court Judge